

May 13, 2005

To: Planning Board
From: CDD Staff

RE: Further Discussion of retail use along Lower Massachusetts Avenue in the Agassiz, Neighborhood 9, and Porter Square Neighborhoods

The Board requested that the staff enumerate a set of objectives that could serve to guide the Board in recommending changes to the text of the Massachusetts Avenue Overlay District. A draft set of objectives is presented below.

The Board also requested the staff to give some regulatory substance to the tentative decisions and still percolating ideas with regard to the Options 1-6 presented in the chart that served as the basis for discussion at the last meeting. To that end an entire set of amended Overlay District regulations is presented below, with possible changes to the text meant to reflect new policy initiatives highlighted in *italic purple text*. Additional changes to the text, suggested by staff to clean up current gaps or ambiguities in the existing ordinance (without altering the policy substance of the current Ordinance significantly) are highlighted in *italic blue text*. In reviewing the possible changes presented, it is well to remember that few of them are tightly linked together and for the most part each may be considered independently of any other.

Summary of Zoning Options

Threshold for Public Advisory Review

| <i>Proposal</i> | <i>Details</i> |
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| 1. Decrease lower limit for Public Consultation from 6,000 to 2,000 square feet. ADVANCED TO CITY COUNCIL 04/20/05 | <ul style="list-style-type: none">• Additions below 2,000 square feet would undergo staff review, as in Central and Harvard Squares.• Development above 2,000 square feet would undergo an advisory public consultation. |
| 2. Increase upper limit for Public Consultation from 25,000 to 50,000 square feet. ADVANCED TO CITY COUNCIL 05/10/05 | <ul style="list-style-type: none">• Currently, development above 25,000 is not subject to a public consultation.• Development projects 50,000 square feet and larger require a Project Review Special Permit from the Planning Board. |

Retail Uses in Residential Districts

| <i>Proposal</i> | <i>Details</i> |
|---|---|
| 3. In Residence C-2 and C-2A districts, permit the reestablishment or relocation of existing retail activity. RECOMMENDED | <ul style="list-style-type: none">• Allowed by special permit.• Waiver of setbacks permitted.• Limited to existing area of office and retail uses present now within the affected districts.• Use must be on the ground floor or basement. |

Ground Floor Requirements in Commercial Districts

| <i>Option</i> | <i>Details</i> | <i>Variations/Issues</i> |
|---|---|---|
| 4. Impose ground-floor design standards for all non-residential or dormitory uses. RECOMMENDED | <ul style="list-style-type: none">• 50% glass instead of 25% on ground floor.• Ground floor at grade.• Each office/store has a separate entrance facing street. | |
| 5. Provide limited zoning incentives for Provision of Desired Non-Residential Ground Floor Uses. UNDER CONSIDERATION | <ul style="list-style-type: none">• Waive 10' setback for height above 35' in BA-2 district.• Waive parking requirement.• Waive setbacks. | <ul style="list-style-type: none">• Define "desired uses."• Define minimum / maximum extent of use area receiving exemption. |
| 6. Allow application of higher FAR to desired non-residential ground-floor uses in residential or dormitory buildings. UNDER CONSIDERATION | <ul style="list-style-type: none">• FAR of 1.75 instead of 1.00 in BA-2, 2.00 instead of 1.25 in BC.• Ground floor and basement retail only. | <ul style="list-style-type: none">• Define "desired uses."• Define minimum / maximum extent of use area receiving exemption. |

Objectives Statement

1. Encourage, support and maintain the existing wide diversity of building forms, uses, and site development patterns present in the commercial districts along the Avenue.
2. When new buildings are created, or when existing buildings are renovated or upgraded, encourage the creation of an interesting and engaging public face to the street, particularly at the ground floor. Façade designs should include numerous, large, transparent windows and other architectural elements that help to engage pedestrians on the public sidewalk in the activities occurring within the buildings, while always respecting existing distinctive historical or architectural values.
3. Encourage the retention of the existing wide range of retail and consumer service establishments on the ground floor of buildings along the Avenue. Also encourage the creation of ground-floor retail and consumer service uses in new buildings on vacant or significantly underutilized lots. In particular, encourage such active public uses at the ground floor where institutional or residential uses are expected to be the principal activities in the remainder of the building.
4. Encourage additional residential uses along the Avenue, but not at the expense of displacing existing or potential future retail storefronts.
5. Be open to a wide range of building forms and site development characteristics, including street-wall buildings and landscaped front yards, as long each is friendly to pedestrians and does not lead, cumulatively, to the loss of the existing pattern of shop fronts along the Avenue from Wendell Street to Porter Square.
6. Encourage the retention and preservation of the remaining inventory of wood framed freestanding structures, which reflect the Avenue's past as a fashionable residential street.
7. To the extent feasible, encourage enterprises that serve the needs of residents of the adjacent neighborhoods and nearby university populations, while secondarily appealing to those traveling from outside of the immediate neighborhood. Encourage walking and public transportation as the primary means of accessing businesses along the Avenue.

Illustrative Zoning Text

20.100 MASSACHUSETTS AVENUE OVERLAY DISTRICT

20.101 *Establishment and Scope.* There is hereby established the Massachusetts Avenue Overlay District which shall be governed by the regulations and procedures specified in this Section 20.100. It is the intent of this section that these regulations will apply to the area described generally as Northern Massachusetts Avenue and certain abutting portions of the neighborhood abutting it.

20.102 *Purpose.* It is the purpose of this Section 20.100 to augment base zoning regulations in the District in order to create a more harmonious and consistent image for the development along the Avenue and adjacent areas, to encourage good building design and site development which enhances the pedestrian amenities along the Avenue, to ensure that changes along the Avenue are compatible with the scale and character of the abutting neighborhoods, to encourage the retention of existing buildings of historic value and uses *which that* serve the abutting neighborhoods, and to discourage new development inappropriate in both scale and design.

20.103 *Applicability.* The Massachusetts Avenue Overlay District shall be an overlay district on the zoning map established by Section 3.20.

20.103.1 The buildings and land uses within said district shall be controlled by the pertinent regulations *within of the applicable* base zoning district, except as *they may be* modified by the requirements of this Section 20.100, which shall apply in addition to regulations imposed by the base zoning ~~map designations districts. Where the base zoning regulations differ from the requirements of this Section 20.100 the stricter provisions shall apply.~~

20.104 *Dimensional and Parking Standards in the Massachusetts Avenue Overlay District.*

20.104.1 *Height*

20.104.11 *Maximum Height.* The maximum height of any structure in the Overlay District shall be sixty (60) feet or the height applicable in the base district, whichever is less.

20.104.12 *Height in the Business A-2 District*

Where the application of the residential FAR in the applicable base zoning district is employed on a lot as permitted in Section 20.104.3 below, the bulk control plane for portions of a building above thirty-five feet in a Business A-2 district, as set forth in Footnote (k) of Section 5.33, shall not be required for that portion of a building facing a street.

Waiving this requirement for the portion of a building facing a street, as an incentive for providing ground floor activity in a residential building, would permit a four-story structure without a setback at the fourth floor. It is probably one of the more valuable that might be provided, as it would simplify some building construction. Some Board members and the general public have expressed skepticism about this proposal

20.104.2 *Modifications to the Definition of Gross Floor Area.* Notwithstanding the definition of Gross Floor Area contained in Article 2.000 - Definitions, the following shall not be included ~~as part in the calculation~~ of the gross floor area of any building in the Overlay District:

1. Enclosed bays and other small projections from the principal wall plane of a building normally included as gross floor area, provided they are three (3) feet or less in depth and further provided that the following conditions are met:

- a. The maximum width of the projection does not exceed six (6) feet in length;
- b. No more than fifty (50) percent of the area of each principal wall plane is covered with such projections.

20.104.3 *Modifications to the Application of Floor Area Ratio (FAR).*

In order to encourage the provision of active ground floor uses where the principal use of a building is a residential use as permitted in Section 4.31 (a) – (h) or a dormitory use, Section 4.33 (b) (7) the FAR applicable to those residential and dormitory uses in either the Business C or Business A-2 districts shall also be applied to that portion of the building occupied by non residential uses, subject to the following requirements and limitations.

- a. At least fifty (50) percent of the Gross Floor Area of the building is occupied by residential or dormitory uses enumerated above.*
- b. All non-residential uses in the building shall be limited to the first floor and basement of the building.*
- c. The non residential portion of the building shall be occupied by any one of the following uses as they are permitted in the applicable base business district: Retail Business and consumer service establishments – Section 4.35 [but excluding the following(j), (m), and (n)]; Office and Laboratory Uses - Section 4.34, a, b, c, and e (those portions of a bank providing retail banking services to the general public); and Institutional Uses – Section 4.56 a (4), c (4), f (1) and (2), g (3) (5) and (6), and I (2). No use variance may be granted to permit other uses in the subject Gross Floor Area. The uses established shall be open to the public during normal business hours.*
- d. The non residential portion of the building to which the residential FAR is applied shall have a depth no greater than forty (40) feet from the building's Principal Front Wall Plane, on both the first floor and in the basement, along the length of that portion of the building facing a street. Where a lot abuts more than one street, the residential FAR shall only be applied to non-residential space facing a single street. Additional non-residential uses may*

be located in the building but they shall be subject to the FAR normally applied to any non-residential uses in the applicable base zoning district and shall also be subject to the limitations of Paragraphs (a) and (b) above.

e. Any basement space receiving the benefit of the application of the higher, residential FAR must be accessory to, directly accessible from and for the exclusive use of an eligible first floor establishment and have no direct public entrance to the street.

f. No individual retail establishment may exceed 10,000 square feet in area. The Planning Board may grant a special permit to waive this limitation.

g. The Principal Front Wall Plane shall be located no further than twenty-five feet from the street line.

h. The floor to floor height of the first floor shall be a minimum of fifteen (15) feet.

i. The owner of the property shall cause the use, lot and building limitations contained herein and a description of the affected Gross Floor Area to be recorded in the Registry of Deeds of Middlesex County in a form satisfactory to the City. Evidence of such recording shall be required before any Occupancy Permit shall be issued for the Gross Floor Area affected.

The above text would allow the application of the 2.0 FAR in the Business C district and the 1.75 FAR in the Business A-2 district, which is normally reserved for housing and dormitories, to a limited amount of non residential space on the ground floor and basement of residential/dormitory buildings, with the limitations defined above. The space would have to be occupied by a limited range of retail, office and institutional uses.

20.104.4 Waiver of Parking Requirement

For that area of a building employing the FAR provisions of Section 20.104.3 above, no accessory off street parking shall be required, notwithstanding any provision of Article 6.000.

If additional incentives to encourage retail uses on the ground floor were deemed appropriate, waiving any accessory parking that might be generated by the non-residential use could be considered.

20.104.5 Waiver of Yard Requirements

For a building employing the FAR provisions of Section 20.104.3 above, the Minimum Front and Side Yard requirements of the Business A-2 district, as set forth in Table 5-3, shall not apply. The provisions of Section 5.40 shall continue to apply, however.

Modest front and side yards might be required on some lots (5-10 feet) by the Business A-2 district regulations. Waiving those requirements is another incentive that might be applied to encourage consideration by a property owner of active ground floor uses. The

minimum 10-foot setback from a lot in a residential district, required universally in the Ordinance, would continue to apply.

20.105 *Restrictions in Required and/or Provided Setbacks.* That area between the principal wall plane of a building and a public street or public park whether required or provided shall be devoted to Green Area Open Space as defined in Article 2.000 of this Ordinance, an expansion of the adjacent public sidewalk, park, or other landscaped or paved area devoted exclusively to pedestrian use and extending along the entire length of the lot facing the street or park. Areas devoted to vehicular use are prohibited from this area with the exception of access drives to parking facilities located elsewhere on the site and which shall be limited to a total of thirty (30) feet of width for each one hundred (100) feet of lot frontage.

The required Green Area Open Space, landscaping or other paved area devoted to pedestrian uses shall be located at the mean grade of the relevant public street or open space at the property line unless an exception is granted under the provisions of Section 20.108 of this Section 20.100.

Where a building fronts on more than two streets, the provisions of this Section 20.105 shall apply to no more than two streets, which shall include the principal arterial streets abutting the lot.

On that rare site in the Overlay District, where there are three or four abutting streets (like the Porter Square Shopping Center), this added provision would allow some surface parking between the building and some streets, where the current regulations would essentially prohibit it completely on the lot.

20.106 *Use Restrictions.*

20.106.1 The ground (first) floor of that portion of a building facing a public street or public park shall consist of Gross Floor Area devoted to any one or combination of the following uses: Residential (Section 4.31), Office (Section 4.34), retail business (Section 4.35), Institutional (Section 4.33), but specifically excluding Gross Floor Area in structured parking ~~counted as Gross Floor Area~~, meeting the following conditions:

1. At least eighty (80) percent of the floor elevation of the ground (first) floor shall be ~~no higher than the four (4) feet above the~~ at the mean grade of the adjacent public sidewalk ~~or public park, at the property line~~, except that residential and dormitory uses ~~Retail Business uses in new construction shall~~ may be located ~~four feet above~~ at mean grade;
2. The use shall have a depth of at least ~~twenty (20)~~ forty (40) feet;
3. Where a lot fronts on two ~~or more~~ streets the provisions of this Section 11.106 shall apply only to the principal arterial street frontage provided the remainder of the ground floor of the building facing the public street shall be

screened with a permanent wall in materials equal in quality to those of the rest of the building and having a minimum opacity of fifty (50) percent.

4. One parking space for each unit in a Townhouse *Development* shall be exempt from the limitations of this Section 20.106.

5. *These provisions shall apply to any building constructed after the effective date of this Section 20.100; however, a building constructed before the effective date of this Section 20.100, which in whole or in part meets the requirements of this Section 20.107.1, shall not be altered so as to increase the degree to which it does not comply with this Section 20.107.*

With these changes, all uses on the first floor of a building (generally the frontage facing Massachusetts Avenue) would be required to be at grade with the exception of residential and dormitory uses. Previously, only retail uses had to be at grade.

20.106.2 *Retail Uses in Residential Districts. Where a lot in a Residence C-2 or C-2A zoning district contains Gross Floor Area devoted to any retail use in Section 4.35 or office use in Section 4.34, which use was legally established on the lot prior to the adoption of this Section 20.100, that equivalent area of Gross Floor Area may be (a) reestablished on that lot in any new construction on the site, or (b) may be established on any other lot within the Overlay District in a Residence C-2 or C-2A district, and (c) when reestablished or relocated may contain any retail use permitted in Section 4.35 in a BA-2 district,. Such reestablished Gross Floor Area shall be permitted after the grant of a special permit from the Planning Board, subject to the following conditions and limitations:*

- 1. The area devoted to retail use is located on the ground floor or basement of a building.*
- 2. The retail area is so designed and located as to have no significant negative impact on adjacent residential or other uses permitted in the residential district, or adjacent neighborhood residential districts.*
- 3. The area of such retail use does not exceed that area of retail or office use previously on the site on which it had been located or from which it is being transferred.*
- 4. The total Gross Floor Area on the lot for all uses does not exceed that permitted in the applicable base residential district.*

In permitting the establishment of retail Gross Floor Area in a new building, the Planning Board may waive the yard requirements normally applicable in the residential district for that portion of the building containing the retail uses. Signs for the retail uses shall be subject to the provisions of Section 7.16.21 (C). Where Gross Floor Area is to be relocated to another lot, the Board may in its conditions permit the retail operations at the old location to continue until the Gross Floor Area at the new location is available for occupancy.

Any retail use reestablished and relocated under the provisions of this Section 20.106.2 may be further reestablished or relocated at any time in the future after the issuance of an additional special permit. However, once the retail use is abandoned, as determined by the provisions of Article 8.000 it may not be thereafter reestablished under the provisions of this Section 20.106.2

The issue of abandonment of the retail activity, regulated in the last sentence of the section, was raised in earlier discussions. While not essential, the provision is consistent with the general premise of the this section, that the area affected should remain essentially residential and institutional in nature and in the (quite speculative) event that retail activity were converted to other uses, and thus lost, that outcome would be consistent with the policy premise that these residential districts (C-2 and C-2A) are appropriate. Furthermore, if any area of retail activity were abandoned for many years, it would likely be difficult to track the actual amount present many years later when it is proposed to be resurrected.

20.107 *Design Standards*

Building facades shall be designed to enhance the visual quality of the Overlay District, create an environment pleasant and inviting for the pedestrian and compatible with the residential neighborhoods in close proximity to the district. The following standards shall apply *to any building constructed after the effective date of this Section 20.100; a building constructed before the effective date of this Section 20.100, which in whole or in part meets the requirements of this Section 20.107.1, shall not be altered so as to increase the degree to which it does not comply with this Section 20.107:*

This change is meant to permit conversions of the ground floors of residential structures that may have historic value to non-residential use without triggering a requirement that they provide the extensive glass area otherwise required that could destroy the building's historic character or architectural integrity.

1. Principal building entrances shall face Massachusetts Avenue where a lot abuts the Avenue;
2. ~~Where office and/or retail~~ *For any uses are except residential use, Section 4.31 (a) – (h),* accommodated on the ground floor, each separately leased space shall have an individual public entrance onto the abutting street where any portion of the space fronts towards the street;
3. Facades facing *(a)* a public street; *(b)* a public park *located on an abutting lot;* or *(c)* a designated city landmark building or building in a local historic district or neighborhood conservation district *located* on an abutting lot shall consist of a minimum twenty-five (25) percent clear glass in total for the façade. On the ground floor *façade facing a street with* clear glass *shall be* increased to fifty (50) percent *except* where *residential uses, Section 4.31 (a) – (h), are accommodated; the remainder of the façade shall continue to meet the 25% requirement. Where a building faces two or more streets, the fifty percent glass requirement*

shall apply to no more than two streets. The maximum amount of clear glass permitted shall be seventy-five (75) percent of the facade. Reflective and opaque glass shall be prohibited.

For purposes of this Paragraph 3, where reference is made to the area of a façade of any given floor, the vertical dimension of that floor shall be measured from the finished interior floor to the underside of the structural joists of the floor above. The horizontal dimension shall be measured to the centerline of the demising walls of a separately leased space, or to the exterior wall of the building as applicable. Where reference is made to the entire façade, the vertical dimension shall be measured from the mean grade of the façade facing the street (or other feature) to the underside of the structural rafters supporting the roof.

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| These additions are meant to clarify some ambiguous or unstated assumptions regarding the application of the minimum glass area requirement. |
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- 20.108** Divergence from the standards specified in Sections 20.105 - 20.107 may be allowed by issuance of a special permit from the Planning Board. The Board shall grant such a permit upon its determination that the development proposed will better serve the objectives of this Section 20.100 than if the standards were followed and that the criteria specified in Section 10.43 will be satisfied.

The Board shall be guided in its determination by *Northern Massachusetts Avenue Urban Design Guidelines* and other such guidelines as may be established for this portion of Massachusetts Avenue. This Section 20.108 is intended for variations from the standards which may be appropriate in specific locations and circumstances and where careful design detail is a controlling factor.

- 20.109** *The Massachusetts Avenue Overlay District shall be considered an area of special planning concern. ~~Development proposals exceeding six thousand (6,000) square feet in gross floor area shall be subject to the Large Project Review Procedure in Section 19.43. Notwithstanding the provisions in Section 19.43.1 – Applicability of Large Project Review Procedure, in the Massachusetts Avenue Overlay District the Large Project Review Procedure shall apply to any development proposal containing more than two thousand (2000) square feet of Gross Floor Area but less than fifty thousand (50,000) square feet, unless such development is exempt by virtue of the provisions of Section 19.45.~~*

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| This change has been submitted to City Council and will be returning to the Board for hearings in the near future. |
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- 20.110** *Nonconforming structures.* Notwithstanding the provisions of Section 8.23, that portion of a legal, nonconforming structure lying within the Massachusetts Avenue Overlay District which is destroyed or damaged by fire, explosion, or other catastrophe may be rebuilt or restored and used again, in the same way as

it had been legally used immediately before the damage, without limit as to cost of such rebuilding or restoring provided the following conditions are met:

1. Any restoration or rebuilding shall commence within twelve (12) months after the catastrophe;
2. The structure shall be restored or rebuilt to the same design, including materials and design details as existed previously; or should the restoration not be feasible necessitating that the structure be rebuilt to a different design, said design shall be at least equal to the original design of the structure in quality of materials used, the quantity and quality of design details employed, and the compatibility of the site design with abutting properties;
3. The Community Development Department shall certify to the Superintendent of Buildings that the above conditions have been met.

With respect to the comparability of newly designed buildings, the Community Development Department shall consult the Cambridge Historical Commission for structures greater than fifty (50) years old. Should the Community Development Department find that said conditions have not been met the restoring or rebuilding shall require a special permit from the Board of Zoning Appeal.

The restored or rebuilt structure shall in no aspect increase the nonconforming nature of the original structure; nothing in this Section 20.110, however, shall prohibit a rebuilding or restoring which reduces the nonconforming nature of the original structure.

List of Uses

The following are the list of uses enumerated in Section 20.104.3 above that would be allowed to occupy space that received the FAR bonus granted in the section.

Section 4.35 – Retail Business and Consumer Service Establishments

Almost retail uses in this category would be permitted, including stores selling goods of all kinds and restaurants.

The exclusions are:

- j. Funeral home
- m. Sale of cars
- n. Office for wholesale business

Section 4.34 – Office and Laboratory Uses

- a. Office of a physician or dentist.
- b. Office of an accountant or attorney
- c. Real estate or insurance office
- e. Bank

Section 4.56 – Institutional Uses

- a (4). Social or recreation center
- c (4). College athletic facility, auditorium, theater
- f (1). Social service center
- f (2). Community center
- g (3) Local government museum
- g (5). Local government recreation building
- g (6). Municipal library
- I (2). Private museum or non-commercial gallery